

**REMARKS**

**I.           Status Of The Claims**

Claims 1-17 are pending in this Application.

Claims 3-5 and 16 are rejected under 35 U.S.C. 112, second paragraph.

Claims 1-17 are rejected under 35 U.S.C. 102(e) as being anticipated by Okita (U.S. Patent No. 6,538,721).

With this response claim 5 is canceled without prejudice or disclaimer, claims 1-4 and 6-17 are amended, and new claims 18 and 19 are added.

**II.           Rejections Under 35 U.S.C. 112**

The Office Action rejects claims 3-5 and 16 under 35 U.S.C. 112, second paragraph “as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention”.

With this response the Applicant amends claims 3, 4, and 16, and cancels claim 5 without prejudice or disclaimer. The Applicant submits that claims 3, 4, and 16, at least as amended herewith, are in compliance with 35 U.S.C. 112.

In view of at least the foregoing, the Applicant respectfully requests that the rejection under 35 U.S.C. 112 be withdrawn.

**III.           Rejections Under 35 U.S.C. 102(e)**

The Office Action rejects independent claims 1, 15, 16, and 17 under 35 U.S.C. 102(e) as being anticipated by Okita. However, the Applicant respectfully submits that Okita

fails to disclose all aspects of those claims, at least as amended herewith.

For example, Okita fails to disclose, teach, or suggest:

“... determining the value of the parameter to be set in the exposure apparatus based on reproducibility of the image of which information has been acquired with respect to each of the plurality of values of the parameter in said acquiring step ...”  
(emphasis added)

as stated by each of independent claims 1, 15, and 17.

As another example, Okita fails to disclose, teach, or suggest:

“... a determining unit which determines the value of the parameter to be set in said exposure apparatus based on reproducibility of the image of which information has been acquired with respect to each of the plurality of values of the parameter by said acquiring system”  
(emphasis added)

as stated by independent claim 16.

In view of at least the foregoing, the Applicant respectfully submits that claims 1, 15, 16, and 17, as well as those claims that depend therefrom, are in condition for allowance.

### CONCLUSION

The Applicant respectfully submits that this Application is in condition for allowance for which action is earnestly solicited.

If a telephone conference would facilitate prosecution of this Application in any way, the Examiner is invited to contact the undersigned at the number provided.

### AUTHORIZATION

The Commissioner is hereby authorized to charge any additional fees which may

be required for this amendment, or credit any overpayment to Deposit Account No. 13-4500,  
Order No. 1232-5145. **A DUPLICATE OF THIS DOCUMENT IS ATTACHED.**

Furthermore, in the event that an additional extension of time is required, the  
Commissioner is requested to grant a petition for that extension of time which is required to  
make this response timely and is hereby authorized to charge any fee for such an extension of  
time or credit any overpayment for an extension of time to the above-noted Deposit Account and  
Order No.

Respectfully submitted,

MORGAN & FINNEGAN, L.L.P.

Dated: January 7, 2005

By:

A handwritten signature in dark ink, appearing to read 'Angus R. Gill', is written over a horizontal line.

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